

South Carolina Board of Economic Advisors

Statement of Estimated State Revenue Impact

Date: May 15, 2007 (As amended April 18, 2007 by the House Ways & Means Committee)

Bill Number: H.B. 3372

Author: Kirsh

Committee Requesting Impact: Senate Finance Committee

Bill Summary

A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-60-3312 SO AS TO PROVIDE THAT PROCEEDINGS AND RECORDS OF A CONTESTED CASE HEARING INVOLVING THE SOUTH CAROLINA REVENUE PROCEDURES ACT ARE OPEN TO THE PUBLIC; TO AMEND SECTION 6-34-40, RELATING TO TAX CREDITS FOR RETAIL FACILITIES REVITALIZATION, SO AS TO MAKE A TECHNICAL CHANGE AND TO PROVIDE THAT THE DEPARTMENT OF REVENUE MAY PROMULGATE REGULATIONS IN CONNECTION WITH THESE CREDITS, BUT IS NOT REQUIRED TO; TO AMEND SECTION 12-2-20, AS AMENDED, RELATING TO THE DEFINITION OF "PERSON" FOR PURPOSES OF ADMINISTRATION OF TAXES BY THE DEPARTMENT OF REVENUE, SO AS TO ADD A DEFINITION FOR "INDIVIDUAL"; TO AMEND SECTION 12-6-40, AS AMENDED, RELATING TO APPLICABILITY OF THE INTERNAL REVENUE CODE TO THIS STATE, SO AS TO PROVIDE FOR A TAXPAYER FILING A STATE RETURN WITH AN APPROVAL FROM THE INTERNAL REVENUE SERVICE; TO AMEND SECTION 12-6-545, AS AMENDED, RELATING TO INCOME TAX RATES FOR PASS-THROUGH TRADE AND BUSINESS INCOME, SO AS TO CORRECT A CROSS REFERENCE AND TO FURTHER PROVIDE FOR AN ELECTION BY A TAXPAYER OWNING AN INTEREST IN A PASS-THROUGH BUSINESS FOR WHICH A PORTION OF THE ACTIVE INCOME IS RELATED TO HIS PERSONAL SERVICES; TO AMEND SECTION 12-6-1140, AS AMENDED, RELATING TO DEDUCTIONS ALLOWED FROM SOUTH CAROLINA TAXABLE INCOME OF AN INDIVIDUAL SO AS TO PROVIDE FOR CERTIFICATION FROM A SUPERVISOR OF THE TAXPAYER CLAIMING THE DEDUCTION; TO AMEND SECTION 12-6-3360, AS AMENDED, RELATING TO THE JOB TAX CREDIT, SO AS TO CORRECT CROSS REFERENCES AND TO FURTHER PROVIDE FOR DESIGNATION OF THE CORPORATE HEADQUARTERS OF A GENERAL CONTRACTOR LICENSED IN THIS STATE; TO AMEND SECTION 12-6-3535, AS AMENDED, RELATING TO CREDIT AGAINST THE STATE INCOME TAX FOR REHABILITATION OF A CERTIFIED HISTORIC STRUCTURE, SO AS TO PROVIDE FOR THE FILING OF THE CERTIFICATION BY THE TAXPAYER WITH A TAX RETURN; TO AMEND SECTION 12-6-3585, RELATING TO THE TAX CREDIT FOR CONTRIBUTIONS TO THE INDUSTRY PARTNERSHIP FUND, SO AS TO SUBSTITUTE THE WORD "SINGLE" FOR "INDIVIDUAL" WHEN DESCRIBING THE TAXPAYER AND TO PROVIDE FOR AVAILABILITY OF THE QUALIFYING FORM TO THE DEPARTMENT OF REVENUE; TO AMEND SECTION 12-6-3587, RELATING TO A TAX CREDIT FOR INSTALLATION OF A SOLAR ENERGY HEATING OR COOLING SYSTEM SO AS TO SPECIFY THAT THE INSTALLATION MUST BE DONE IN A BUILDING IN THIS STATE; TO AMEND SECTION 12-6-4980, AS AMENDED, RELATING TO EXTENSION OF TIME FOR FILING RETURNS, SO AS TO PROVIDE FOR AN EXTENSION NOT TO EXCEED SIX MONTHS, TO DELETE THE REQUIREMENT THAT THE EXTENSION BE ALLOWED FOR GOOD CAUSE, AND TO DISALLOW ANOTHER EXTENSION FOR A TAXPAYER WHO FAILS TO MEET THE REQUIREMENT OF THE PREVIOUS EXTENSION; TO AMEND SECTION 12-8-580, AS AMENDED, RELATING TO INCOME TAX WITHHOLDING FROM A NONRESIDENT SELLER, SO AS TO PROVIDE FOR THE REMITTANCE OF WITHHELD AMOUNTS BY A LENDING INSTITUTION, REAL ESTATE AGENT, OR CLOSING ATTORNEY; TO AMEND SECTION 12-8-590, RELATING TO WITHHOLDING INCOME TAX FROM A NONRESIDENT DISTRIBUTEES SO AS TO MAKE TECHNICAL CORRECTIONS; TO AMEND SECTION 12-8-1520, AS AMENDED, RELATING TO DUTIES OF AN INCOME TAX WITHHOLDING AGENT TO DEPOSIT AND PAY WITHHOLDINGS, SO AS TO PROVIDE FOR RETURN AND REMITTANCE ON AN ANNUAL BASIS BY AN AGENT NOT REQUIRED TO WITHHOLD MORE THAN ONE THOUSAND DOLLARS IN A CALENDAR YEAR; TO AMEND SECTION 12-8-2020, RELATING TO REFUND OR CREDIT FOR OVERPAYMENT OF WITHHELD TAX, SO AS TO DELETE THE REQUIREMENT THAT THE WITHHOLDING AGENT FURNISH EVIDENCE AND TO DELETE TIME AND DOLLAR AMOUNT LIMITATIONS; TO AMEND SECTION 12-20-90, AS AMENDED, RELATING TO LICENSE FEES FOR HOLDING COMPANIES, SO AS TO CORRECT A CROSS REFERENCE; TO AMEND SECTION 12-23-20, AS AMENDED, RELATING TO EXEMPTION FROM THE BUSINESS LICENSE TAX, SO AS TO CONFORM THE TIMES FOR WHICH THE ASSESSMENT OF TAXES MAY BE SUSPENDED; TO AMEND SECTION 12-36-2120, AS AMENDED, RELATING TO EXEMPTIONS FROM THE STATE SALES TAX, SO AS TO CONFORM THE TIMES FOR WHICH THE ASSESSMENT OF TAXES MAY BE SUSPENDED; TO AMEND SECTION 12-36-2510, AS AMENDED, RELATING TO A CERTIFICATE ALLOWING A TAXPAYER TO BUY TANGIBLE PERSONAL PROPERTY TAX FREE AND THE PURCHASER TO BE LIABLE FOR TAXES, SO AS TO MAKE A TECHNICAL CORRECTION; TO AMEND SECTION 12-37-270, AS AMENDED, RELATING TO CREDITS TO THE TRUST FUND FOR TAX RELIEF IN AN AMOUNT SUFFICIENT TO PAY REIMBURSEMENT, SO AS TO PERMIT, BUT NOT REQUIRE, THE DEPARTMENT OF REVENUE TO PROMULGATE REGULATIONS IN THAT CONNECTION; TO AMEND SECTION 12-54-44, AS AMENDED, RELATING TO CRIMINAL PENALTIES IN CONNECTION WITH FILING A RETURN OR STATEMENT, SO AS

South Carolina Board of Economic Advisors

Statement of Estimated State Revenue Impact

TO PROVIDE FOR THE FELONY OF SUBMITTING A FALSE OR FRAUDULENT W-2 FORM AND TO PROVIDE PENALTIES; TO AMEND SECTION 12-54-70, AS AMENDED, RELATING TO EXTENSION OF TIME FOR FILING RETURNS OR PAYING TAX, SO AS TO PROVIDE FOR AN EXTENSION OF TIME NOT TO EXCEED SIX MONTHS AND TO DELETE THE REQUIREMENT THAT GOOD CAUSE BE SHOWN; TO AMEND SECTION 12-54-85, AS AMENDED, RELATING TO TIME LIMITS ON ASSESSMENTS, SO AS TO PROVIDE FOR THE TOTAL OF ALL TAXES REQUIRED TO BE SHOWN ON A RETURN IN CONNECTION WITH DETERMINATION OF AN UNDERSTATEMENT OF TAXES, TO PROVIDE FOR TIME LIMITS FOR ASSESSMENT OF USE TAXES, AND TO PROVIDE THAT THE TIME LIMITATIONS DO NOT APPLY TO SUCCESSOR LIABILITY STATUTES; TO AMEND SECTION 12-54-155, AS AMENDED, RELATING TO PENALTIES FOR UNDERSTATEMENT OF TAXES, SO AS TO MAKE A TECHNICAL CORRECTION; TO AMEND SECTION 12-54-240, AS AMENDED, RELATING TO DISCLOSURE OF RECORDS, REPORTS, AND RETURNS FILED WITH THE DEPARTMENT OF REVENUE, SO AS TO PROVIDE FOR DISCLOSURE OF THE TAXPAYER'S ADDRESS AS SHOWN ON THE RETURN, TO OMIT A CROSS REFERENCE, AND TO ALLOW THE DISCLOSURE OF INFORMATION IN CONNECTION WITH PROCEEDINGS AND RECORDS OF A CONTESTED CASE HEARING OF THE ADMINISTRATIVE LAW COURT PURSUANT TO THE SOUTH CAROLINA REVENUE PROCEDURES ACT; TO AMEND SECTION 12-60-20, AS AMENDED, RELATING TO LEGISLATIVE INTENT IN CONNECTION WITH THE SOUTH CAROLINA REVENUE PROCEDURES ACT, SO AS TO INCLUDE DISPUTES CONCERNING PROPERTY TAXES; TO AMEND SECTION 12-60-90, AS AMENDED, RELATING TO THE ADMINISTRATIVE TAX PROCESS, SO AS TO CORRECT A CROSS REFERENCE; TO REPEAL SECTION 12-58-90 RELATING TO NOTICE TO TAXPAYER OF A HEARING IN CONNECTION WITH THE TAXPAYERS' BILL OF RIGHTS AND ACT 370 OF 2002 RELATING TO THE NURSING HOME FRANCHISE FEE; TO AMEND SECTION 6-1-32, AS AMENDED, RELATING TO THE LIMIT ON PROPERTY TAX MILLAGE INCREASES, SO AS TO PROVIDE THAT A REDUCTION IN POPULATION DOES NOT DECREASE THE APPLICABLE LIMIT; TO AMEND SECTION 12-37-670, AS AMENDED, RELATING TO THE OPTIONAL ACCELERATION OF LISTING REAL PROPERTY FOR PROPERTY TAX, SO AS TO ALLOW A COUNTY ORDINANCE IMPLEMENTING THE ACCELERATION TO USE A MONTHLY, QUARTERLY, OR SEMI-ANNUAL SCHEDULE, PROVIDE FOR THE ASSESSOR TO DO THESE LISTINGS, ELIMINATE PROVISIONS PROVIDING FOR PAYMENT IN THE SUCCEEDING TAX YEAR, AND PROVIDE THAT ADDITIONAL TAX IS DUE ON THE VALUE OF THE IMPROVEMENTS LISTED WITHOUT REGARD TO A TAX RECEIPT ISSUED EARLIER FOR PAYMENT ON THE UNIMPROVED PROPERTY; TO AMEND SECTION 12-37-2725, AS AMENDED, RELATING TO REFUNDS OF VEHICLE REGISTRATION FEES AND PERSONAL PROPERTY TAXES ON SUCH VEHICLES WHEN A TITLE IS TRANSFERRED OR THE VEHICLE OWNER REGISTERS THE VEHICLE IN ANOTHER STATE, SO AS TO PROVIDE AN ADDITIONAL METHOD OF PROOF FOR OBTAINING THE REFUND OF PERSONAL PROPERTY TAXES ON A VEHICLE; TO AMEND SECTIONS 12-37-3130 AND 12-37-3150, RELATING TO DEFINITIONS AND ASSESSABLE TRANSFERS OF INTEREST FOR PURPOSES OF THE SOUTH CAROLINA REAL PROPERTY VALUATION REFORM ACT, SO AS TO REVISE THE DEFINITION OF "CONVEYANCE" AND PROVIDE THAT TRANSFERS OCCUR WHEN INSTRUMENTS ARE EXECUTED WITHOUT REFERENCE TO THE DATE OF RECORDING AND TO PROVIDE THAT FAILURE TO RECORD GIVES RISE TO NO INFERENCE OR TO WHETHER OR NOT A TRANSFER HAS OCCURRED; TO AMEND SECTION 12-43-220, AS AMENDED, RELATING TO CLASSIFICATION AND ASSESSMENT OF PROPERTY FOR PURPOSES OF PROPERTY TAX, SO AS TO PROVIDE ADDITIONAL INFORMATION AND CERTIFICATION REQUIREMENTS TO OBTAIN THE SPECIAL FOUR PERCENT ASSESSMENT RATIO FOR OWNER-OCCUPIED RESIDENTIAL PROPERTY, TO PROVIDE PERIODIC REAPPLICATION AS THE ASSESSOR DETERMINES NECESSARY AND TO REVISE THE PENALTY FOR TIMELY FAILURE TO NOTIFY THE ASSESSOR WHEN REAL PROPERTY NO LONGER QUALIFIES FOR THIS SPECIAL ASSESSMENT RATIO; TO AMEND SECTION 12-51-50, AS AMENDED, AND SECTION 12-51-70, RELATING TO DELINQUENT TAX SALES, SO AS TO REPLACE THE REFERENCE TO LEGAL SALES DATE WITH THE ADVERTISED DATE FOR THE SALE AND INCREASE FROM THREE HUNDRED TO ONE THOUSAND DOLLARS THE MAXIMUM PENALTY FOR DEFAULTING ON A TAX SALE BID; TO AMEND SECTION 12-54-240, AS AMENDED, RELATING TO THE OFFENSE OF DISCLOSURE OF TAX INFORMATION, SO AS TO REVISE AN EXEMPTION TO THIS OFFENSE; AND TO AMEND SECTION 12-60-2510, AS AMENDED, RELATING TO PROPERTY TAX APPEALS, SO AS TO PROVIDE THAT IN NONREASSESSMENT YEARS, AN APPEAL MADE BEFORE THE FIRST PENALTY DATE FOR TAXES FOR THE YEAR APPLIES FOR THAT YEAR AND AN APPEAL FILED ON OR AFTER THAT DATE APPLIES FOR THE NEXT YEAR.

REVENUE IMPACT ^{1/}

This bill, as amended, is expected to reduce General Fund individual income tax revenue by an estimated \$11,412,500 in FY2007-08, and increase General Fund individual withholding tax revenue by an estimated \$7,812,500 in FY2008-09. Sales tax revenue would be increased by \$791,750 in FY2007-08. Of that total, \$527,832 would be an increase in General Fund sales tax revenue, \$131,959 would be an increase in EIA Funds, and 131,959 would be an increase in Homestead Exemption Funds. This bill would also reduce General Fund admissions tax revenue by an estimated \$303,000 in FY2007-08. This bill would decrease local property tax revenues by \$12,700,000 in FY2007-08 and shift it to the

South Carolina Board of Economic Advisors

Statement of Estimated State Revenue Impact

other classes of property to the extent allowed by the millage caps. In total, this bill, as amended, is expected to reduce General Fund revenue by an estimated \$11,187,668 in FY2007-08.

Explanation of Amendment (April 24, 2007) – By the House of Representatives

The following Sections of the amendment are expected to have an impact on General Fund revenue in FY2007-08. The amendment also numbers Sections to conform.

Section 61. This section will allow real property of manufacturers used primarily for warehousing and wholesale distribution to become subject to a 6.0% assessment ratio instead of a 10.5% assessment ratio. Under current law, this only applied to clothing and wearing apparel and property not located on the premises or contiguous to the manufacturer. Extending the 6.0% assessment ratio to this property will decrease local property tax revenues by \$12,700,000 in FY2007-08 and shift it to the other classes of property to the extent allowed by the millage caps.

Section 63. This section would add the language from H.B.3576. This section would exempt counties that collect more than \$900 in accommodations tax revenue in one fiscal year from the Sunday Blue Law provisions contained in Chapter 1 of Title 53. This would effectively repeal statewide the prohibition on Sunday retail sales on items such as clothing, house wares, appliances, and home and office furnishings. This proposal would not affect existing Sunday alcoholic liquor restrictions. We expect that the repeal would generate additional taxable sales in the counties that border North Carolina and Georgia, thereby increasing state sales tax revenue. We anticipate that all retail establishments in these border counties will increase their hours of operation by an average of 2 hours per week. We reduced the additional Sunday sales for a change in consumer behavior as current shoppers purchase more on Saturdays or delay purchases until Mondays in counties that prohibit Sunday sales. The estimated increase in taxable sales does not include sales that are already exempt from the Sunday sales prohibition (mostly food items). Based on this analysis, we expect that this bill would increase sales tax revenue by \$1,128,000 in FY 2007-08. Of this total, \$752,000 would be an increase in General Fund sales tax revenue, \$188,000 would be an increase in EIA Funds, and \$188,000 would be an increase in the Homestead Exemption Trust Fund.

Section 64. This section would allow the Department of Revenue to compensate motion picture production companies up to 20% of the total payroll for persons employed in connection with a film production. Currently under §12-62-50, the department can compensate motion picture production companies an amount equal to 15% of the total aggregate payroll for persons employed in connection with a motion picture production where total production costs in South Carolina equal or exceed \$1,000,000 per year. Analysis of Department of Revenue data on rebates in FY2006-07 suggests that \$66,000,000 in payroll would be eligible for the 20% rebate of total compensation. Consequently, we expect that the additional 5% compensation of total payroll to motion picture production companies would reduce General Fund individual income tax revenue by \$3,300,000 in FY2007-08.

This section also provides from the 26% of the General Fund portion of the admissions tax plus an additional \$10,000,000 appropriation pursuant to §12-62-60, the Department of Commerce may compensate motion picture production companies up to 30% of their expenditures. Currently, the Department of Commerce may use the allocated 26% of admission tax collections to compensate up to 15% of the motion picture productions companies' expenditures. As the provision does not increase the expected \$7,900,000 in admission tax revenue allocated to the Department of Commerce for these purposes, we expect no impact on the General Fund from this part of the temporary provision. The mandated \$10,000,000 increase to South Carolina Film Commission is an annual appropriation. The

South Carolina Board of Economic Advisors

Statement of Estimated State Revenue Impact

budgetary impact of this provision should be addressed by the Office of State Budget in their fiscal impact statement.

This section further allocates an additional 1% of the General Fund portion of the admissions tax to the South Carolina Film Commission to promote collaborative production and educational efforts between institutions of higher learning. Currently, the Department of Commerce must fund this collaborative effort from amounts equal to 1% of the allocated 26% of admission tax collections. For FY2007-08, we expect admission tax revenue to total \$30,300,000. An additional 1% allocated to the Film Commission would reduce General Fund admission tax revenue by \$303,000 in FY2007-08.

Section 66. This section would amend Section 12-6-510(A) to reduce the top marginal individual income tax rate from 7.0% to 6.83% for taxable years beginning after 2006. Based upon the BEA's individual income tax estimate of \$3,401,273,503 in FY2007-08 made on February 15, 2007, reducing the top marginal individual income tax rate from 7% to 6.83% in FY2007-08 would require the use of \$80,980,000 of recurring funds in FY2007-08. This section would reduce General Fund individual income tax revenue by an estimated \$80,980,000 in FY2007-08.

Explanation of Amendment (April 18, 2007) – By the House Ways and Means Committee

The following Sections of the amendment are expected to have an impact on General Fund revenue in FY2007-08.

Section 40. This amendment would add extend the sales tax exemption for electricity used to irrigate crops to electricity used by greenhouses to irrigate plants. We expect that exempting these electricity sales would reduce Sales and Use tax revenue by \$26,250 in FY2007-08. Of this total, \$17,500 would be a reduction in General Fund revenue, \$4,375 would be a reduction in EIA Funds, and \$4,375 would be a reduction in Homestead Exemption Fund revenue.

Section 42. This amendment would allow for a sales tax exemption on certain pharmaceutical agents and medical supplies purchased and stockpiled by the state of South Carolina for exclusive use in declared emergencies, major disasters, or influenza pandemics. This exemption also allows SC DHEC to request a refund for sales tax paid on qualified items prior to enactment of this provision. According to information provided by SC DHEC, a total of \$4,746,000 was paid in FY2006-07 for a one time purchase of qualified pharmaceutical agents in order to take advantage of a lower price. Typically, SC DHEC pays approximately \$500,000 a year on such pharmaceutical agents. We expect that the unnumbered amendment modifying Section 12-36-2120 would decrease Sales tax revenue by \$310,000 in FY2007-08. Of this total, \$206,668 would be a reduction in General Fund revenue, \$51,666 would be a reduction in EIA Funds, and \$51,666 would be a reduction in Homestead Exemption Fund revenue.

Section 57. This amendment modifying §12-6-590(B) would decrease General Fund income tax revenue by \$300,000 in FY 2007-08. This amendment would allow Subchapter S shareholders of a bank, a tax credit that effectively excludes the shareholders' prorata share of the net items of income and expense from the bank. This proposed credit would help resolve a potential situation where the net income earned by banks that elect Sub S tax status is subject to the bank tax and then additional income tax for the amounts passed through to the Sub S shareholders. The shareholders would remit taxes based on the rates for active or business income of pass-through businesses pursuant to §12-6-545 (maximum of 5% for tax years after 2008).

South Carolina Board of Economic Advisors

Statement of Estimated State Revenue Impact

Explanation of the Bill filed January 30, 2007

This bill makes technical corrections and adds clarifying language. The following Sections of the bill are expected to have an impact on General Fund revenue in FY2007-08.

Section 5. Currently, small taxpayers with less than \$1,000,000 in gross income and taxable incomes less than \$100,000 may elect to treat 50% of income as not related to personal services. This bill proposes to modify this safe harbor provision to delete the less than \$1,000,000 in gross income limitation. This deletion along with the exclusion of capital gains and losses may allow more taxpayers to become eligible for the election. However, due to the anticipated complexity of the determination of personal service income, which these small taxpayers will have to determine only for state tax purposes, we expect that this election by taxpayers will increase some taxpayers' income tax liability and decrease others. We expect that the net result will be revenue neutral.

Section 16. This section would amend Section 12-8-1520 to add subsection (C) that would allow a taxpayer that does not withhold more than \$1,000 in a calendar year to file its withholding return and remit South Carolina withholding taxes annually before the last day in February in the following calendar year instead of the current monthly or quarterly schedules. An estimated 50,000 taxpayers file withholdings of \$1,000 or less during a tax year. An estimated three-quarter of these taxpayers file withholdings between \$500 and \$1,000, while an estimated one-quarter of these taxpayers file annual withholdings between \$1 and \$500 during a tax year. Multiplying 50,000 taxpayers by three-quarter of taxpayers that file withholdings between \$500 and \$1,000 by the midpoint withholding amount of \$750 for one-half of a tax year from January through June 2008 yields an estimated \$14,062,500 of withholdings. Not all taxpayers will choose to file their withholdings annually. An estimated one-half of taxpayers will choose to file withholdings annually instead of the current monthly or quarterly schedule. This results in an estimated \$7,031,250 of taxpayer withholdings that will be filed annually. This will cause a reduction of \$7,031,250 of taxpayer withholdings in FY2007-08 to be shifted and reported in February of FY2008-09. Also, multiplying 50,000 taxpayers by one-quarter of taxpayers that file withholdings between \$1 and \$500 by the midpoint withholding amount of \$250 for one-half of a tax year from January through June 2008 yields an estimated \$3,125,000 of withholdings. Not all taxpayers will choose to file their withholdings annually. An estimated one-half of taxpayers will choose to file withholdings annually instead of the current monthly or quarterly schedule. This results in an estimated \$781,250 of taxpayer withholdings that will be filed annually. This will cause a reduction of \$781,250 of taxpayer withholdings in FY2007-08 to be shifted and reported in February of FY2008-09. In total, this section will cause a reduction of \$7,812,500 of taxpayer withholdings in FY2007-08 to be shifted and reported in February of FY2008-09.

/s/ WILLIAM C. GILLESPIE, PH.D.

William C. Gillespie, Ph.D.
Chief Economist

Analysts: Gibson / Martin / Shuford

^{1/} This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.